

By: Thompson of Harris

H.B. No. 1032

A BILL TO BE ENTITLED

AN ACT

relating to the adoption of the Uniform Electronic Legal Material Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2051, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. UNIFORM ELECTRONIC LEGAL MATERIAL ACT

Sec. 2051.151. SHORT TITLE. This subchapter may be cited as the Uniform Electronic Legal Material Act.

Sec. 2051.152. DEFINITIONS. In this subchapter:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Legal material" means, whether or not in effect:

(A) the constitution and statutes of this state;

(B) the general or special laws passed in a regular or special session of the Texas Legislature; and

(C) a state agency rule adopted in accordance with Chapter 2001.

(3) "Official publisher" means:

(A) for legal material described by Subdivision

(2)(A), the Texas Legislative Council; and

(B) for legal material described by Subdivision

(2)(B) or (C), the secretary of state.

1           (4) "Publish" means displaying, presenting, or  
2 releasing to the public, or causing to be displayed, presented, or  
3 released to the public, legal material by the official publisher.

4           (5) "Record" means information that is inscribed on a  
5 tangible medium or that is stored in an electronic or other medium  
6 and is retrievable in perceivable form.

7           (6) "State" means a state of the United States, the  
8 District of Columbia, Puerto Rico, the United States Virgin  
9 Islands, or any territory or insular possession subject to the  
10 jurisdiction of the United States.

11           Sec. 2051.153. APPLICABILITY. This subchapter applies to  
12 all legal material in an electronic record that is:

13           (1) designated as official by the official publisher  
14 under Section 2051.154; and

15           (2) first published electronically by the official  
16 publisher on or after January 1, 2019.

17           Sec. 2051.154. LEGAL MATERIAL IN OFFICIAL ELECTRONIC  
18 RECORD. (a) If the official publisher publishes legal material  
19 only in an electronic record, the official publisher shall:

20           (1) designate the electronic record as official; and

21           (2) comply with Sections 2051.155, 2051.157, and  
22 2051.158.

23           (b) If the official publisher publishes legal material in an  
24 electronic record and also publishes the material in a record other  
25 than an electronic record, the official publisher may designate the  
26 electronic record as official if the official publisher complies  
27 with Sections 2051.155, 2051.157, and 2051.158.

1       Sec. 2051.155. AUTHENTICATION OF OFFICIAL ELECTRONIC  
2 RECORD. (a) If the official publisher designates an electronic  
3 record as official in accordance with Section 2051.154, the  
4 official publisher shall authenticate the record.

5       (b) The official publisher authenticates an electronic  
6 record by providing a method with which a person viewing the  
7 electronic record is able to determine that the electronic record  
8 is unaltered from the official record published by the official  
9 publisher.

10       Sec. 2051.156. EFFECT OF AUTHENTICATION. (a) Legal  
11 material in an electronic record that is authenticated as provided  
12 by Section 2051.155 is presumed to be an accurate copy of the legal  
13 material.

14       (b) If another state has adopted a law that is substantially  
15 similar to this subchapter, legal material in an electronic record  
16 that is authenticated in that state is presumed to be an accurate  
17 copy of the legal material.

18       (c) A party contesting the authenticity of legal material in  
19 an electronic record authenticated as provided by Section 2051.155  
20 has the burden of proving by a preponderance of the evidence that  
21 the record is not authentic.

22       Sec. 2051.157. PRESERVATION AND SECURITY OF LEGAL MATERIAL  
23 IN OFFICIAL ELECTRONIC RECORD. (a) The official publisher of legal  
24 material in an electronic record designated as official in  
25 accordance with Section 2051.154 shall provide for the preservation  
26 and security of the record in an electronic form or in a form that is  
27 not electronic.

1        (b) If legal material is preserved under Subsection (a) in  
2 an electronic record, the official publisher shall:

3                (1) ensure the integrity of the record;

4                (2) provide for backup and disaster recovery of the  
5 record; and

6                (3) ensure the continuing usability of the legal  
7 material in the record.

8        Sec. 2051.158. PUBLIC ACCESS. The official publisher of  
9 legal material in an electronic record that is required to be  
10 preserved under Section 2051.157 shall ensure that the material is  
11 reasonably available for use by the public on a permanent basis.

12        Sec. 2051.159. STANDARDS. In implementing this subchapter,  
13 the official publisher of legal material in an electronic record  
14 shall consider:

15                (1) the standards and practices of other  
16 jurisdictions;

17                (2) the most recent standards regarding  
18 authentication, preservation, and security of and public access to  
19 legal material in an electronic record and other electronic  
20 records, as adopted by national standard-setting bodies;

21                (3) the needs of users of legal material in electronic  
22 records;

23                (4) the views of governmental officials and entities  
24 and other interested persons; and

25                (5) to the extent practicable, the methods and  
26 technologies for the authentication, preservation, and security of  
27 and public access to legal material that are compatible with the

1 methods and technologies used by official publishers in other  
2 states that have adopted a law that is substantially similar to this  
3 subchapter.

4 Sec. 2051.160. UNIFORMITY OF APPLICATION AND CONSTRUCTION.  
5 In applying and construing this subchapter, consideration must be  
6 given to the need to promote uniformity of the law with respect to  
7 the subject matter of this subchapter among the states that enact a  
8 law similar to this subchapter.

9 Sec. 2051.161. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL  
10 AND NATIONAL COMMERCE ACT. This subchapter modifies, limits, and  
11 supersedes the federal Electronic Signatures in Global and National  
12 Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify,  
13 limit, or supersede Section 101(c) of that Act (15 U.S.C. Section  
14 7001(c)) or authorize electronic delivery of any of the notices  
15 described in Section 103(b) of that Act (15 U.S.C. Section  
16 7003(b)).

17 SECTION 2. This Act takes effect January 1, 2018.